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Good afternoon once again to the GAE Committee – Chairman Musto, Chairman Jutila, Sen. McLachlan, Rep. Hwang and members. For the record, my name is Denise Merrill and I am Secretary of the State of Connecticut. There are many bills on your agenda today. I wanted to address just a few of the bills today, and I will be happy to take questions afterwards.

H.B. No. 5551 AN ACT REQUIRING A REVIEW OF THE COMPUTERIZED VOTER-TALLY SYSTEM BY THE AUDITORS OF PUBLIC ACCOUNTS

This bill would require the auditors of public accounts to “conduct a review of the computerized vote-tally system developed by the Secretary of the State and used by thirty-two municipalities for the November 5, 2013, municipal elections.” The bill also asks the auditors to examine the efficiency, effectiveness and general performance of the system. I welcome review and comment on the ongoing projects in my office, but I’m not sure such an audit is needed in light of my and my staff’s availability to discuss the program.

In fact, we issued a progress report over two months ago that is posted on the front page of our web site. In addition, we have worked with a team of local election officials who are helping with the testing of the system, and last fall we invited all of you over to our offices to view the new system and ask any questions you might have or offer ideas on its usability. I don’t know

how many of you actually availed yourselves of that opportunity, but I think it is a valuable experience.

We are working very hard to modernize how election results are reported in Connecticut while simultaneously transforming the preparation of many forms and sets of information that local election administrators are tasked with. We are building not only an election night reporting tool, but an election administration application. Elections are probably the last area of government where the administration is almost entirely local and the key filings are all still paper-based. And these papers are often hand written, incomplete, inconsistent, and hard to follow.

The public deserves better. We need to modernize how we report election results, and that is what our project is all about. In a nutshell, we are trying to digitize these filings – both of pre-election forms and paperwork, and digitize the filing of election results. A number of states have adopted digital election management software including a web-based election results reporting system where members of the public can see in real time when local election officials post results. We are trying to do the same.

We are still in the testing phase, however, with a couple of real world experiences in 2012 for the state and federal election and in 2013 for the municipal election. These field tests have proven very beneficial thus far, teaching us what would work and what doesn't work for the local elected officials who are going to need to use this program.

Elections in Connecticut are remarkably de-centralized. There are laws governing how the optical scan voting machines are to be used, and how to set up a polling place, and how the votes are to be tallied. But outside of that, there is really no standardization about how towns and cities collate those tabulations and report their results. Mind you, in municipal elections, the town clerk certifies the election results, not the Secretary of the State's office.

But every town records their election results in a slightly different way. We have found – for instance – that in some towns, results are recorded by hand. In others, there is a computerized spreadsheet of the election results, because the clerk must report to my office the list of elected officials once the election is over. What may work in one town or city doesn't necessarily work in another, due to overlapping districts and in some cases, wards within the city.

What we are essentially proposing to do is standardize the reporting of election results for both state and municipal elections. My vision is that in every town and city in the state, the registrar of voters would log in to this online election management system ahead of the election, and enter the polling place locations and the candidates on the ballot. After the election, the head moderator in each city and town would log in and enter the numbers he or she receives on the returns of each moderator from every polling place in town.

Once those numbers are entered by the head moderator, they become available to the public. This includes voter turnout, absentee ballots, Election Day registration voters, and how many

votes received by each candidate. Once all the results are entered from all polling places in town or city, the moderator hits submit. At that moment, the crucial head moderator's return is generated and sent directly to my office.

This program will calculate election totals, voter turnout by town, legislative or Congressional district or statewide, and those will become instantly available. Plus, it will generate the numerous pre- and post-election reports that registrars of voters and town clerks currently have to do by hand. I see this as a way to make election administration easier for the local officials while at the same time avoiding the kind of delays and gaps in reporting election results in Connecticut.

I want it online, available to everyone as soon as possible, and no more hand written notes on paper! So that is the big picture. I think this is something everyone can and should support. At this time I would recommend voting against this bill.

S.B. No. 441: AN ACT CONCERNING ELECTRONIC OR MANUAL CHECK-IN OF
VOTERS, THE PROCESS OF VOTING, AND ELECTRONIC FILING OF OFFICIAL
CHECK LISTS

This bill encourages the use of electronic poll books to check in voters when they show up to cast their ballots on Election Day. I have long been an advocate of electronic poll books, where voters coming to their polling place on the day of the election are checked in using an electronic device such as a bar code reader, instead of using pencil and paper as is done now. Electronic poll books will help to improve customer service and make lines move more quickly on Election Day.

It is my belief that electronic poll books will also result in fewer human errors where the wrong voter is marked as having cast a ballot, which we have seen in the past, sometimes even marking a deceased relative or spouse as having voted. This will increase the accuracy of our voter rolls. Electronic poll books have been successfully used in a number of other states for years, and there have also been several municipalities in Connecticut that have tried them out on a limited basis – to rave reviews!

I am 100% on board with the use of electronic poll books and my office is actually in the process of engaging the University of Connecticut VOTER center to develop protocols and standards for the use of this new technology. We want to ensure there is no compromise of security to our election system if we go to an electronic way of checking people in at the polls. Anything that directly interfaces with our centralized voter registration system needs to be carefully considered.

The bill before you is a starting point, and the registrars of voters and I look forward to giving you some improved, more developed language related to electronic poll books soon.

SENATE JOINT RESOLUTION No. 24: A RESOLUTION PROPOSING A
CONSTITUTIONAL AMENDMENT TO PERMIT OVERSEAS MILITARY VOTERS AN
OPPORTUNITY TO WAIVE THE RIGHT OF SECRET VOTING IN ORDER TO VOTE BY
ANY METHOD PERMITTED UNDER STATE LAW

As you may know, members of the US military serving overseas have faced some serious obstacles when they have tried to cast their ballots for past elections. Historically there were major delays with the Department of Defense mail system. Military overseas voters not just from Connecticut but from all over the country were having trouble with this. This is really wrong – the brave men and women in the military putting their lives on the line to protect our freedoms should feel confident that their votes will count on Election Day. To address these unacceptable delays, some states began to allow military overseas voters to cast their ballots electronically by fax or email.

There are constitutional issues, however, with taking this step. American democracy has always placed tremendous value on the secrecy and privacy of the ballot. Yet in order to vote electronically as a member of the military serving overseas, you would essentially have to give up your fundamental right to a private ballot. This is because if you are faxing your ballot to your town hall, whoever retrieves the ballot is going to see your choices. And if you email your ballot, that ballot is not a secure document. It is relatively easy to hack into someone's email. Also, that email has to be retrieved by a human being.

Our state constitution speaks in an explicit way about the secrecy and privacy of the ballot. My office issued a report in January on improving voting for military serving overseas from Connecticut. In that report, we noted that the secret ballot is enshrined in the Connecticut Constitution. Article Sixth, Section 5 of the Constitution provides:

“In all elections of officers of the state, or members of the general assembly, the votes of the electors shall be by ballot, either written or printed, except that voting machines or other mechanical devices for voting may be used in all elections in the state, under such regulations as may be prescribed by law. No voting machine or device used at any state or local election shall be equipped with a straight ticket device. The right of secret voting shall be preserved.”

An earlier OLR report also stated that, “Voters typically must waive their right to a secret ballot when submitting a ballot electronically.” Confidentiality is waived because the ballot, whether arriving in a fax machine, by email or through a web portal, must necessarily be associated with a name on the voter list. The ballot must arrive with the person's name and the name must be checked off the list of enrolled voters in the town. The person performing these tasks can see

how the person voted. By contrast, confidentiality is preserved in the paper mail system because of the use of inner and outer envelopes.

Some proponents of electronic transmission of voted ballots note that the right to a secret and private ballot can be legally waived. The language in Article Sixth, Section 5 is directory in nature, using the phrase "shall be preserved." This raises the question of whether the General Assembly can request that a voter waive a constitutional right to utilize an electronic ballot transmission system. Hence, we are presented with this constitutional question.

But I would say that this constitutional question raises some questions that might need addressing before we move to change our constitution. First, as noted in my report, the question of whether or not this constitutional amendment is needed has not been addressed by a court or by the Attorney General in a formal opinion. It might be wise to seek this opinion before you vote on changing the constitution.

The other significant questions raised by this proposed constitutional amendment go to the underlying reasons for its stated necessity. The truth is, while we have historically seen difficulties for overseas military voters in casting their ballots on time for the election, we have also seen dramatic improvements in recent years. In 2010, nearly 40% of the absentee ballots sent to military overseas voters from Connecticut were not returned by Election Day. That is a bad statistic, no doubt.

But in 2010 as a state we were just starting to implement the federal MOVE act that was passed to address this problem nationwide. The MOVE Act requires that ballots be sent to military and overseas voters 45 days before a federal election. Connecticut is unique among the states in that we will mail a blank absentee ballot as early as 90 days before the election to those servicemen who are absent from home due to a military contingency. This provision was originally enacted to allow those serving at the submarine base to have timely access to the ballot before they leave for extended tours. This is an important safeguard for those serving in active duty who cannot follow the regular absentee ballot procedure and helps to ensure that the ballot is received in time to be counted.

We worked with town clerks across Connecticut to implement the new federal law, permitting the military overseas voters to electronically send applications for absentee ballots to their town clerk. The completed ballots still had to be sent back by regular mail, but it was thought that these changes would significantly reduce mail delays for men and women in uniform serving abroad. Well, this new federal law saw dramatic results for Connecticut.

In 2012, of all absentee ballots sent out to overseas military voters from Connecticut, 94% were returned in time to be counted for Election Day. This is a huge improvement. Now granted, we can always improve the voting experience for overseas military voters, and we should not be happy until 100% of those brave men and women in uniform who want to vote can without any problem, and in my report to the General Assembly on this topic I did propose a way in which we can even further improve overseas military voter participation by vastly speeding up the delivery time of ballots to military personnel.

But it raises a serious question for this amendment in front of you. With nearly 95% of military overseas ballots coming back in time to be counted for Election Day, do we really need to codify exceptions to the fundamental constitutional right of the secret ballot? Does the problem justify such a far-reaching constitutional approach that might have other consequences?

For instance, if we allow military overseas voters the right to waive their secret ballot – could they face pressures to vote a certain way or are we endangering the integrity of the votes they are casting? Or – are we wiser to leave the right of secret ballot as it is enshrined in our constitution and instead focus on ways technology can help us further reduce the processing time and mail delays for absentee ballots?

In sum, I want to praise this committee for taking up this serious issue, and I would urge you to consider these questions as you decide what to do about this proposed constitutional amendment.

Thank you and I am happy to answer any questions.